

House Engrossed Senate Bill

State of Arizona
Senate
Forty-sixth Legislature
First Regular Session
2003

CHAPTER 202

SENATE BILL 1103

AN ACT

AMENDING SECTIONS 32-1505, 32-3201 AND 41-1092, ARIZONA REVISED STATUTES; AMENDING TITLE 32, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 42; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3013.01; MAKING AN APPROPRIATION; RELATING TO THE BOARD OF MASSAGE THERAPY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-1505, Arizona Revised Statutes, is amended to read:

32-1505. Naturopathic physicians board of medical examiners fund

A. Pursuant to sections 35-146 and 35-147, the board shall deposit ten per cent of all monies from whatever source which come into the possession of the board in the general fund and deposit the remaining ninety per cent in the naturopathic physicians board of medical examiners fund.

B. THE BOARD SHALL ESTABLISH A SEPARATE ACCOUNT IN THE FUND FOR MONIES TRANSFERRED TO THE FUND PURSUANT TO SECTION 32-4205.

~~B.~~ C. Monies deposited in the naturopathic physicians board of medical examiners fund are subject to section 35-143.01.

Sec. 2. Section 32-3201, Arizona Revised Statutes, is amended to read: 32-3201. Definitions

In this chapter, unless the context otherwise requires:

1. "Health profession regulatory board" means any board that regulates one or more health professionals in this state.

2. "Health professional" means a person who is certified or licensed pursuant to chapter 7, 8, 11, 13, 14, 15, 15.1, 16, 17, 18, 19, 19.1, 21, 25, 28, 29, 33, 34, 35, 39, or 41 OR 42 of this title, title 36, chapter 6, article 7 or title 36, chapter 17.

Sec. 3. Title 32, Arizona Revised Statutes, is amended by adding chapter 42, to read:

CHAPTER 42

MASSAGE THERAPY

ARTICLE 1. GENERAL PROVISIONS

32-4201. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS THE BOARD OF MASSAGE THERAPY.

2. "BOARD APPROVED SCHOOL" MEANS ANY MASSAGE THERAPY OR BODYWORK THERAPY SCHOOL OR TRAINING PROGRAM IN THIS STATE THAT IS OFFERED BY A COMMUNITY COLLEGE OR APPROVED BY THE STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION OR A SCHOOL OR PROGRAM IN ANOTHER STATE THAT MEETS THE CRITERIA ESTABLISHED BY THE BOARD OF MASSAGE THERAPY.

3. "BODYWORK THERAPY" MEANS MASSAGE THERAPY.

4. "MASSAGE THERAPIST" MEANS A PERSON WHO IS LICENSED UNDER THIS CHAPTER TO ENGAGE IN THE PRACTICE OF MASSAGE THERAPY.

5. "MASSAGE THERAPY" MEANS THE FOLLOWING THAT ARE UNDERTAKEN TO INCREASE WELLNESS, RELAXATION, STRESS REDUCTION, PAIN RELIEF AND POSTURAL IMPROVEMENT OR PROVIDE GENERAL OR SPECIFIC THERAPEUTIC BENEFITS:

(a) THE MANUAL APPLICATION OF COMPRESSION, STRETCH, VIBRATION OR MOBILIZATION OF THE ORGANS AND TISSUES BENEATH THE DERMIS, INCLUDING THE COMPONENTS OF THE MUSCULOSKELETAL SYSTEM, PERIPHERAL VESSELS OF THE

1 CIRCULATORY SYSTEM AND FASCIA, WHEN APPLIED PRIMARILY TO PARTS OF THE BODY
2 OTHER THAN THE HANDS, FEET AND HEAD.

3 (b) THE MANUAL APPLICATION OF COMPRESSION, STRETCH, VIBRATION OR
4 MOBILIZATION USING THE FOREARMS, ELBOWS, KNEES OR FEET OR HANDHELD MECHANICAL
5 OR ELECTRICAL DEVICES.

6 (c) ANY COMBINATION OF RANGE OF MOTION, DIRECTED, ASSISTED OR PASSIVE
7 MOVEMENTS OF THE JOINTS.

8 (d) HYDROTHERAPY, INCLUDING THE THERAPEUTIC APPLICATIONS OF WATER,
9 HEAT, COLD, WRAPS, ESSENTIAL OILS, SKIN BRUSHING, SALT GLOWS AND SIMILAR
10 APPLICATIONS OF PRODUCTS TO THE SKIN.

11 6. "PRACTICE OF MASSAGE THERAPY" MEANS THE APPLICATION OF MASSAGE
12 THERAPY TO ANY PERSON FOR A FEE OR OTHER CONSIDERATION. PRACTICE OF MASSAGE
13 THERAPY DOES NOT INCLUDE THE DIAGNOSIS OF ILLNESS OR DISEASE, MEDICAL
14 PROCEDURES, NATUROPATHIC MANIPULATIVE MEDICINE, OSTEOPATHIC MANIPULATIVE
15 MEDICINE, CHIROPRACTIC ADJUSTIVE PROCEDURES, HOMEOPATHIC NEUROMUSCULAR
16 INTEGRATION, ELECTRICAL STIMULATION, ULTRASOUND, PRESCRIPTION OF MEDICINES
17 OR THE USE OF MODALITIES FOR WHICH A LICENSE TO PRACTICE MEDICINE,
18 CHIROPRACTIC, NURSING, PHYSICAL THERAPY, ACUPUNCTURE OR PODIATRY IS REQUIRED
19 BY LAW.

20 32-4202. Board; membership; terms; immunity

21 A. THE BOARD OF MASSAGE THERAPY IS ESTABLISHED CONSISTING OF THE
22 FOLLOWING MEMBERS APPOINTED BY THE GOVERNOR:

23 1. THREE MASSAGE THERAPISTS WHO ARE RESIDENTS OF THIS STATE, WHO
24 POSSESS AN UNRESTRICTED LICENSE TO PRACTICE MASSAGE THERAPY IN THIS STATE AND
25 WHO HAVE BEEN PRACTICING IN THIS STATE FOR AT LEAST FIVE YEARS IMMEDIATELY
26 PRECEDING THEIR APPOINTMENT. THE GOVERNOR MAY MAKE THESE APPOINTMENTS FROM
27 A LIST OF NAMES SUBMITTED BY A STATEWIDE MASSAGE OR BODYWORK THERAPY
28 ASSOCIATION, OR BOTH, OR ANY OTHER GROUP OR PERSON. THE INITIAL THREE
29 APPOINTEES ARE NOT REQUIRED TO BE LICENSED PURSUANT TO THIS CHAPTER AT THE
30 TIME OF SELECTION BUT MUST MEET ALL OF THE QUALIFICATIONS FOR LICENSURE AS
31 PRESCRIBED BY THIS CHAPTER.

32 2. TWO PUBLIC MEMBERS WHO ARE RESIDENTS OF THIS STATE AND WHO ARE NOT
33 AFFILIATED WITH AND DO NOT HAVE ANY FINANCIAL INTEREST IN ANY HEALTH CARE
34 PROFESSION BUT WHO HAVE AN INTEREST IN CONSUMER RIGHTS OR HAVE A BACKGROUND
35 IN COMPLIANCE OR LAW ENFORCEMENT ISSUES.

36 B. BOARD MEMBERS SERVE STAGGERED FIVE YEAR TERMS THAT BEGIN AND END
37 ON THE THIRD MONDAY IN JANUARY. BOARD MEMBERS SHALL NOT SERVE FOR MORE THAN
38 TWO SUCCESSIVE FIVE YEAR TERMS OR FOR MORE THAN TEN CONSECUTIVE YEARS. THE
39 TERM OF OFFICE FOR A MEMBER OF THE BOARD APPOINTED TO FILL A VACANCY THAT
40 OCCURS BEFORE THE EXPIRATION OF A FULL TERM IS FOR THE UNEXPIRED PORTION OF
41 THAT TERM AND THE GOVERNOR MAY REAPPOINT THAT MEMBER TO NOT MORE THAN TWO
42 ADDITIONAL FULL TERMS.

43 C. IF REQUESTED BY THE BOARD, THE GOVERNOR MAY REMOVE A BOARD MEMBER
44 FOR MISCONDUCT, INCOMPETENCE OR NEGLECT OF DUTY.

1 D. BOARD MEMBERS ARE ELIGIBLE FOR REIMBURSEMENT OF EXPENSES PURSUANT
2 TO TITLE 38, CHAPTER 4, ARTICLE 2 TO COVER NECESSARY EXPENSES FOR ATTENDING
3 EACH BOARD MEETING OR FOR REPRESENTING THE BOARD IN AN OFFICIAL BOARD
4 APPROVED ACTIVITY.

5 E. A BOARD MEMBER WHO ACTS WITHIN THE SCOPE OF BOARD DUTIES, WITHOUT
6 MALICE AND IN THE REASONABLE BELIEF THAT THE MEMBER'S ACTION IS WARRANTED BY
7 LAW IS NOT SUBJECT TO CIVIL LIABILITY.

8 32-4203. Board; powers and duties

9 A. THE BOARD SHALL:

10 1. EVALUATE THE QUALIFICATIONS OF APPLICANTS FOR LICENSURE.

11 2. DESIGNATE AT LEAST ONE NATIONAL EXAMINATION THAT IT REQUIRES
12 APPLICANTS TO PASS.

13 3. ISSUE LICENSES TO PERSONS WHO MEET THE REQUIREMENTS OF THIS
14 CHAPTER.

15 4. REGULATE THE PRACTICE OF MASSAGE THERAPY BY INTERPRETING AND
16 ENFORCING THIS CHAPTER.

17 5. ESTABLISH REQUIREMENTS FOR THE EDUCATION OF LICENSEES AND
18 APPLICANTS, INCLUDING THE IDENTIFICATION OF BOARD APPROVED SCHOOLS,
19 CONTINUING EDUCATION PROGRAMS AND ASSESSING THE CONTINUING COMPETENCE OF
20 LICENSEES.

21 6. ADOPT RULES FOR ETHICAL AND PROFESSIONAL CONDUCT TO GOVERN THE
22 PRACTICE OF MASSAGE THERAPY IN THIS STATE.

23 7. ADOPT RULES TO ENFORCE THIS CHAPTER.

24 8. MEET AT LEAST ONCE EACH QUARTER IN COMPLIANCE WITH THE OPEN MEETING
25 REQUIREMENTS OF TITLE 38, CHAPTER 3, ARTICLE 3.1 AND KEEP AN OFFICIAL RECORD
26 OF THESE MEETINGS.

27 9. AT ITS FIRST REGULAR MEETING AFTER THE START OF EACH CALENDAR YEAR,
28 ELECT OFFICERS FROM AMONG ITS MEMBERS AS NECESSARY TO ACCOMPLISH BOARD
29 BUSINESS.

30 10. PROVIDE FOR THE TIMELY ORIENTATION AND TRAINING OF NEW PROFESSIONAL
31 AND PUBLIC APPOINTEES TO THE BOARD REGARDING BOARD LICENSING AND DISCIPLINARY
32 PROCEDURES, THIS CHAPTER, BOARD RULES AND BOARD PROCEDURES.

33 11. MAINTAIN A CURRENT LIST OF ALL LICENSEES. THIS LIST SHALL INCLUDE
34 THE LICENSEE'S NAME, CURRENT BUSINESS ADDRESS AND TELEPHONE NUMBER AND
35 LICENSE NUMBER AND SHALL BE REGULARLY ACCESSIBLE IN ELECTRONIC FORMAT TO
36 PUBLIC OFFICIALS AND AGENCIES TO VERIFY THE LICENSE STATUS OF LICENSEES IN
37 THIS STATE.

38 12. ENTER INTO CONTRACTS FOR SERVICES NECESSARY TO ENFORCE THIS
39 CHAPTER.

40 13. PUBLISH, AT LEAST ANNUALLY, OR MAKE AVAILABLE FOR COPYING OR
41 REPRODUCTION IN ANY FORMAT, FINAL DISCIPLINARY ACTIONS TAKEN AGAINST A
42 LICENSEE.

43 B. THE BOARD MAY:

44 1. ACCEPT AND SPEND FEDERAL MONIES AND PRIVATE GRANTS, GIFTS,
45 CONTRIBUTIONS AND DEVICES TO ASSIST IN CARRYING OUT THE PURPOSES OF THIS

1 CHAPTER. THESE MONIES DO NOT REVERT TO THE STATE GENERAL FUND AT THE END OF
2 A FISCAL YEAR.

3 2. ADMINISTER OATHS AND AFFIRMATIONS, SUBPOENA WITNESSES, TAKE
4 EVIDENCE AND REQUIRE THE PRODUCTION OF DOCUMENTS, RECORDS OR INFORMATION,
5 EITHER KEPT IN ORIGINAL FORM OR ELECTRONICALLY STORED OR RECORDED, OR OTHER
6 ITEMS RELEVANT TO A MATTER WITHIN THE JURISDICTION OF THE BOARD.

7 3. REQUIRE A CRIMINAL BACKGROUND CHECK, INCLUDING THE FINGERPRINTING
8 OF EVERY APPLICANT FOR LICENSURE, TO ASSIST THE BOARD IN DETERMINING WHETHER
9 GROUNDS EXIST TO DENY A LICENSE.

10 32-4204. Executive director; personnel

11 A. THE EXECUTIVE DIRECTOR OF THE NATUROPATHIC PHYSICIANS BOARD OF
12 MEDICAL EXAMINERS SHALL ALSO SERVE AS THE EXECUTIVE DIRECTOR OF THE BOARD OF
13 MASSAGE THERAPY.

14 B. THE STAFF OF THE NATUROPATHIC PHYSICIANS BOARD OF MEDICAL EXAMINERS
15 SHALL CARRY OUT THE ADMINISTRATIVE RESPONSIBILITIES OF THE BOARD OF MASSAGE
16 THERAPY.

17 32-4205. Deposit and use of monies received by board

18 A. EXCEPT AS PROVIDED IN SECTION 32-4254, SUBSECTION L AND SECTION
19 32-4255, SUBSECTION E, THE BOARD SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146
20 AND 35-147, TEN PER CENT OF ALL MONIES COLLECTED PURSUANT TO THIS CHAPTER IN
21 THE STATE GENERAL FUND AND DEPOSIT THE REMAINING NINETY PER CENT OF THE
22 MONIES IN A SEPARATE ACCOUNT ESTABLISHED FOR THE BOARD OF MASSAGE THERAPY IN
23 THE NATUROPATHIC PHYSICIANS BOARD OF MEDICAL EXAMINERS FUND ESTABLISHED BY
24 SECTION 32-1505.

25 B. THE BOARD MAY SPEND MONIES DEPOSITED IN THE SEPARATE ACCOUNT
26 ESTABLISHED FOR THE BOARD AND DEPOSITED IN THE NATUROPATHIC PHYSICIANS BOARD
27 OF MEDICAL EXAMINERS FUND PURSUANT TO SECTION 32-1505.

28 ARTICLE 2. LICENSURE

29 32-4221. Licensure; persons and activities not required to be
30 licensed

31 A. BEGINNING ON JULY 1, 2004, A PERSON WHO WISHES TO ENGAGE IN THE
32 PRACTICE OF MASSAGE THERAPY MUST BE LICENSED PURSUANT TO THIS CHAPTER AND MAY
33 SUBMIT AN APPLICATION FOR LICENSURE PURSUANT TO THIS CHAPTER NOT SOONER THAN
34 THE DATE PRESCRIBED BY THE BOARD.

35 B. THIS CHAPTER DOES NOT APPLY TO:

36 1. A HEALTH CARE PROFESSIONAL WHO IS LICENSED PURSUANT TO THIS TITLE
37 AND WHO PRACTICES WITHIN THE SCOPE OF THAT PERSON'S LICENSE IF THAT PERSON
38 DOES NOT CLAIM TO BE A MASSAGE THERAPIST OR A BODYWORK THERAPIST.

39 2. A PERSON WHO IS PURSUING A COURSE OF STUDY LEADING TO A DEGREE AS
40 A MASSAGE THERAPIST IN A PROFESSIONAL EDUCATION PROGRAM THAT IS APPROVED BY
41 THE BOARD IF ALL OF THE FOLLOWING APPLY:

42 (a) THE PERSON IS SATISFYING SUPERVISED CLINICAL EDUCATION
43 REQUIREMENTS RELATED TO THE PERSON'S MASSAGE THERAPY EDUCATION WHILE UNDER
44 THE DIRECT SUPERVISION OF A LICENSED MASSAGE THERAPIST.

1 (b) THE PERSON IS PRACTICING IN AN EDUCATION SETTING IN THIS STATE
2 THAT HAS BEEN APPROVED BY THE STATE BOARD FOR PRIVATE POSTSECONDARY
3 EDUCATION.

4 (c) THE PERSON IS PRACTICING IN AN ESTABLISHMENT, LOCATION OR SETTING
5 THAT COMPLIES WITH APPLICABLE MUNICIPAL AND COUNTY ORDINANCES.

6 (d) ALL PERSONS WHO ARE PRESENT IN THE ROOM DURING THE DELIVERY OF
7 MASSAGE SERVICES, OTHER THAN A STUDENT AND THE CUSTOMER, ARE LICENSED
8 PURSUANT TO THIS CHAPTER OR A HEALTH PROFESSIONAL AS DEFINED IN SECTION
9 32-3201.

10 3. A MASSAGE THERAPIST WHO RESIDES AND IS EMPLOYED IN ANOTHER
11 JURISDICTION AND WHO POSSESSES THE QUALIFICATIONS FOR LICENSURE IN THIS STATE
12 IF THAT PERSON IS PERFORMING MASSAGE THERAPY IN THIS STATE IN CONNECTION WITH
13 TEACHING OR IS PARTICIPATING IN AN EDUCATIONAL SEMINAR.

14 4. THE PRACTICE OF MASSAGE THERAPY BY A PERSON WHO IS EMPLOYED BY THE
15 GOVERNMENT OF THE UNITED STATES WHILE THE PERSON IS ENGAGED IN THE
16 PERFORMANCE OF DUTIES PRESCRIBED BY THE LAWS AND REGULATIONS OF THE UNITED
17 STATES.

18 5. WHEN THE CUSTOMER IS FULLY CLOTHED, THE PRACTICE OF MOVEMENT
19 EDUCATORS, SUCH AS DANCE THERAPISTS OR TEACHERS, YOGA TEACHERS, PERSONAL
20 TRAINERS, MARTIAL ARTS INSTRUCTORS AND MOVEMENT REPATTERNING PRACTITIONERS.

21 6. WHEN THE CUSTOMER IS FULLY CLOTHED, THE PRACTICE OF TECHNIQUES THAT
22 ARE SPECIFICALLY INTENDED TO AFFECT THE HUMAN ENERGY FIELD.

23 C. A HEALTH CARE PROFESSIONAL WHO IS LICENSED PURSUANT TO THIS TITLE
24 AND WHO PRACTICES WITHIN THE SCOPE OF THAT PERSON'S LICENSE IS NOT REQUIRED
25 TO BE LICENSED PURSUANT TO THIS CHAPTER.

26 D. NOTHING IN THIS CHAPTER REQUIRES A PERSON ACTING UNDER THE
27 SUPERVISION OF A PERSON LICENSED PURSUANT TO THIS TITLE AND PERMITTED BY THIS
28 TITLE TO PERFORM FUNCTIONS UNDER THE DIRECTION OR SUPERVISION OF THAT
29 LICENSEE TO HOLD A LICENSE PURSUANT TO THIS CHAPTER.

30 32-4222. Qualifications for licensure; exemption from
31 examination and clinical experience requirements

32 A. AN APPLICANT FOR A LICENSE AS A MASSAGE THERAPIST SHALL:

33 1. BE AT LEAST EIGHTEEN YEARS OF AGE.

34 2. BE A CITIZEN OR LEGAL RESIDENT OF THE UNITED STATES.

35 3. SATISFY THE REQUIREMENTS OF SECTION 32-4224.

36 4. BE OF GOOD MORAL CHARACTER.

37 5. POSSESS A HIGH SCHOOL DIPLOMA OR GENERAL EQUIVALENCY DIPLOMA OR A
38 SIMILAR DOCUMENT OR CERTIFICATE.

39 6. HAVE COMPLETED THE APPLICATION PROCESS.

40 7. PAY THE FEES ESTABLISHED PURSUANT TO SECTION 32-4227.

41 8. NOT HAVE BEEN CONVICTED OF A FELONY OR OTHER OFFENSE INVOLVING
42 MORAL TURPITUDE OR PROSTITUTION, SOLICITATION OR OTHER SIMILAR OFFENSE WITHIN
43 FIVE YEARS PRECEDING THE DATE OF THE APPLICATION.

44 9. WITHIN THE PAST FIVE YEARS NOT HAVE VOLUNTARILY SURRENDERED A
45 LICENSE UNDER SECTION 32-4254 OR NOT HAVE HAD A LICENSE TO PRACTICE MASSAGE

1 THERAPY OR ANOTHER SIMILAR LICENSE REVOKED BY A POLITICAL SUBDIVISION OF THIS
2 STATE OR A REGULATORY BOARD IN ANOTHER JURISDICTION IN THE UNITED STATES FOR
3 AN ACT THAT OCCURRED IN THAT JURISDICTION THAT WOULD BE SUBJECT TO DISCIPLINE
4 PURSUANT TO THIS CHAPTER.

5 10. NOT BE CURRENTLY UNDER INVESTIGATION, SUSPENSION OR RESTRICTION BY
6 A POLITICAL SUBDIVISION OF THIS STATE OR A REGULATORY BOARD IN ANOTHER
7 JURISDICTION IN THE UNITED STATES FOR AN ACT THAT OCCURRED IN THAT
8 JURISDICTION THAT WOULD BE SUBJECT TO DISCIPLINE PURSUANT TO THIS
9 CHAPTER. IF THE APPLICANT IS UNDER INVESTIGATION BY A REGULATORY BOARD IN
10 ANOTHER JURISDICTION, THE BOARD SHALL SUSPEND THE APPLICATION PROCESS AND MAY
11 NOT ISSUE OR DENY A LICENSE TO THE APPLICANT UNTIL THE INVESTIGATION IS
12 RESOLVED.

13 11. SUBMIT A FULL SET OF FINGERPRINTS TO THE BOARD FOR THE PURPOSE OF
14 OBTAINING A STATE AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION
15 41-1750 AND PUBLIC LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE
16 THIS FINGERPRINT DATA WITH THE FEDERAL BUREAU OF INVESTIGATION. THE BOARD
17 MAY CHARGE THE COST OF EACH CRIMINAL BACKGROUND CHECK TO THE APPLICANT.

18 B. IN ADDITION TO THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION,
19 AN APPLICANT FOR LICENSURE AS A MASSAGE THERAPIST SHALL:

20 1. HAVE SUCCESSFULLY COMPLETED A COURSE OF STUDY OF MASSAGE THERAPY
21 OR BODYWORK THERAPY CONSISTING OF A MINIMUM OF FIVE HUNDRED CLASSROOM HOURS
22 OF SUPERVISED INSTRUCTION AT A BOARD APPROVED SCHOOL. ON OR AFTER JULY 1,
23 2005, THE BOARD MAY BY RULE, INCREASE THE MINIMUM NUMBER OF CLASSROOM HOURS
24 OF SUPERVISED INSTRUCTION AT A BOARD APPROVED SCHOOL THAT AN APPLICANT FOR
25 LICENSURE AS A MASSAGE THERAPIST SHALL HAVE SUCCESSFULLY COMPLETED.

26 2. HAVE SUCCESSFULLY PASSED AN EXAMINATION ADMINISTERED BY A NATIONAL
27 BOARD ACCREDITED BY THE CERTIFYING AGENCY THAT HAS BEEN APPROVED BY THE
28 NATIONAL COMMISSION ON COMPETENCY ASSURANCE AND THAT IS IN GOOD STANDING WITH
29 THAT AGENCY OR HAVE SUCCESSFULLY PASSED AN EXAMINATION THAT IS ADMINISTERED
30 OR APPROVED BY THE BOARD.

31 C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, A PERSON WHO APPLIES
32 FOR A PROVISIONAL LICENSE UNDER THIS CHAPTER MAY BE LICENSED BY THE BOARD ON
33 DEMONSTRATION OF THE QUALIFICATIONS SET FORTH IN THIS SUBSECTION AND
34 SUBSECTION A OF THIS SECTION ON OR BEFORE DECEMBER 31, 2004 SUBJECT TO THE
35 REQUIREMENTS OF THIS SECTION. A PERSON MAY QUALIFY FOR A LICENSE UNDER THIS
36 SUBSECTION IF THE PERSON EITHER:

37 1. HAS COMPLETED A MINIMUM OF TWO HUNDRED HOURS OF EDUCATION AND
38 TRAINING IN THE STUDY OF MASSAGE THERAPY OR BODYWORK THERAPY AND THE PERSON
39 HAS CONTINUOUSLY PRACTICED MASSAGE THERAPY IN THIS STATE FOR AT LEAST THREE
40 YEARS BEFORE THE EFFECTIVE DATE OF THIS CHAPTER. THE TWO HUNDRED HOURS OF
41 EDUCATION AND TRAINING REQUIRED BY THIS PARAGRAPH MUST BE TAKEN IN A MASSAGE
42 OR BODYWORK TRAINING PROGRAM THAT IS APPROVED BY THE STATE BOARD FOR PRIVATE
43 POSTSECONDARY EDUCATION OR A PROGRAM THAT IS APPROVED BY A SIMILAR AGENCY OF
44 ANOTHER STATE THAT IMPOSES REQUIREMENTS THAT ARE SUBSTANTIALLY EQUIVALENT TO
45 THE REQUIREMENTS OF THE STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION. THE

1 TRAINING PROGRAM REQUIRED BY THIS PARAGRAPH MUST CONSIST OF ANATOMY AND
2 PHYSIOLOGY, MASSAGE THEORY AND PRACTICE AND ETHICS.

3 2. DEMONSTRATES THAT THE PERSON HAS BEEN SELF-SUPPORTIVE AS A MASSAGE
4 THERAPIST IN THIS STATE SINCE FROM AND AFTER DECEMBER 31, 1992.

5 3. HOLDS A CURRENT PROFESSIONAL LICENSE FROM A MUNICIPALITY OR
6 POLITICAL SUBDIVISION OF THIS STATE THAT REGULATED THE PRACTICE OF MASSAGE
7 THERAPY BEFORE THE EFFECTIVE DATE OF THIS CHAPTER.

8 D. THE BOARD MAY ADOPT RULES TO ALLOW IT TO CONSIDER THE EDUCATION AND
9 EXPERIENCE OF AN APPLICANT WHO CAME FROM A FOREIGN COUNTRY.

10 E. IF THE BOARD IS SATISFIED THAT AN APPLICANT MEETS THE REQUIREMENTS
11 OF THIS SECTION, THE BOARD SHALL ISSUE A LICENSE TO THE APPLICANT.

12 32-4223. Reciprocity

13 A. AN APPLICANT IS ELIGIBLE FOR RECIPROCAL LICENSURE IF EITHER OF THE
14 FOLLOWING APPLIES:

15 1. THE APPLICANT HAS BEEN LICENSED CONTINUOUSLY IN ANOTHER STATE FOR
16 THE LAST FIVE YEARS PRECEDING THE FILING OF THE APPLICATION WITH THE BOARD
17 AND THE OTHER STATE HAS STANDARDS FOR MASSAGE THERAPISTS THAT ARE
18 SUBSTANTIALLY EQUIVALENT TO THOSE IN THIS STATE.

19 2. THE APPLICANT HOLDS A CURRENT CERTIFICATION FROM THE NATIONAL
20 CERTIFICATION BOARD FOR THERAPEUTIC MASSAGE AND BODYWORK OR ANOTHER AGENCY
21 THAT MEETS THE STANDARDS OF THE NATIONAL COMMISSION ON COMPETENCY ASSURANCE
22 AND RECEIVED EDUCATION AND TRAINING SUBSTANTIALLY EQUIVALENT TO THAT REQUIRED
23 BY THIS CHAPTER.

24 B. WHEN AN APPLICANT SUBMITS AN APPLICATION FOR RECIPROCITY, THE
25 APPLICANT SHALL ALSO SUBMIT A LETTER OR OTHER DOCUMENT ACCEPTABLE TO THE
26 BOARD SHOWING WHETHER ANY JURISDICTION THAT HAS PREVIOUSLY CERTIFIED OR
27 LICENSED THE APPLICANT HAS INSTITUTED DISCIPLINARY PROCEEDINGS OR HAS
28 UNRESOLVED COMPLAINTS PENDING AGAINST THE APPLICANT. IF A DISCIPLINARY
29 PROCEEDING OR AN UNRESOLVED COMPLAINT IS PENDING, THE APPLICANT SHALL NOT BE
30 LICENSED UNTIL THE PROCEEDING OR THE COMPLAINT HAS BEEN RESOLVED IN THE
31 APPLICANT'S FAVOR.

32 32-4224. Application; temporary licensure; statement of
33 deficiencies

34 A. AN APPLICANT FOR LICENSURE SHALL FILE A COMPLETED APPLICATION UNDER
35 OATH OR AFFIRMATION CONTAINING THE INFORMATION REQUIRED BY THE BOARD. THE
36 APPLICANT SHALL INCLUDE THE APPLICATION FEE AS PRESCRIBED IN SECTION 32-4227.

37 B. THE EXECUTIVE DIRECTOR MAY ISSUE A TEMPORARY LICENSE TO AN
38 APPLICANT WHO FILES A COMPLETED APPLICATION, WHO MEETS THE APPLICABLE
39 QUALIFICATIONS PRESCRIBED IN SECTION 32-4222 AND WHO PAYS THE PRESCRIBED
40 APPLICATION FEE. A TEMPORARY LICENSE IS NOT EFFECTIVE FOR MORE THAN ONE
41 HUNDRED TWENTY DAYS AND EXPIRES ON THE OCCURRENCE OF ANY ONE OF THE
42 FOLLOWING:

43 1. ISSUANCE OF A LICENSE BY THE BOARD.

44 2. DENIAL OF THE APPLICATION BY THE BOARD.

45 3. EXPIRATION OF THE TERM FOR WHICH THE TEMPORARY LICENSE WAS ISSUED.

32-4225. License renewal; changes in personal information;
notification; continuing education

A. A LICENSE ISSUED PURSUANT TO THIS CHAPTER IS SUBJECT TO RENEWAL EVERY OTHER YEAR AND EXPIRES UNLESS RENEWED.

B. THE EXECUTIVE DIRECTOR SHALL SEND A RENEWAL APPLICATION TO EACH LICENSEE AT LEAST SIXTY DAYS BEFORE EXPIRATION OF THE LICENSE AND MAY RENEW THE LICENSE ON RECEIPT OF A COMPLETED RENEWAL APPLICATION.

C. EACH LICENSEE IS RESPONSIBLE FOR REPORTING TO THE BOARD A NAME CHANGE AND CHANGES IN BUSINESS AND HOME ADDRESSES AND PHONE NUMBERS WITHIN TEN DAYS AFTER ANY CHANGE.

D. EACH LICENSEE SHALL NOTIFY THE BOARD IN WRITING WITHIN TEN DAYS AFTER THE ISSUANCE OF A FINAL ORDER, JUDGMENT OR CONVICTION OF A FELONY OR OTHER OFFENSE INVOLVING MORAL TURPITUDE OR PROSTITUTION, SOLICITATION OR ANY OTHER SIMILAR OFFENSE.

E. WHEN A LICENSEE RENEWS A LICENSE, THE LICENSEE MUST SUBMIT TO THE BOARD EVIDENCE OF THE SUCCESSFUL COMPLETION OF AT LEAST TWENTY-FIVE HOURS OF CONTINUING EDUCATION IN THE PRACTICE OF MASSAGE THERAPY, AS APPROVED BY THE BOARD, DURING THE IMMEDIATELY PRECEDING TWO YEARS.

32-4226. Renewal of an expired license; reinstatement of a
lapsed license

A. THE BOARD MAY RENEW AN EXPIRED LICENSE ON PAYMENT OF A RENEWAL FEE AND A DELINQUENCY FEE AND ON PROOF THAT THE APPLICANT CONTINUES TO MEET ALL REQUIREMENTS FOR CONTINUING COMPETENCY AND CONTINUING EDUCATION ESTABLISHED BY THE BOARD.

B. THE BOARD MAY REINSTATE A LAPSED LICENSE ON PAYMENT OF A RENEWAL FEE AND A REINSTATEMENT FEE AND ON PROOF THAT THE APPLICANT CONTINUES TO MEET ALL REQUIREMENTS FOR CONTINUING COMPETENCY AND CONTINUING EDUCATION ESTABLISHED BY THE BOARD.

C. IF A PERSON'S LICENSE HAS LAPSED FOR MORE THAN THREE CONSECUTIVE YEARS, THAT PERSON SHALL REAPPLY FOR A LICENSE AND PAY ALL APPLICABLE FEES. THE PERSON SHALL ALSO DEMONSTRATE TO THE BOARD'S SATISFACTION COMPETENCY IN THE PRACTICE OF MASSAGE THERAPY OR SHALL SERVE AN INTERNSHIP UNDER A RESTRICTED LICENSE OR TAKE REMEDIAL COURSES AS DETERMINED BY THE BOARD, OR BOTH, AT THE BOARD'S DISCRETION. THE BOARD MAY ALSO REQUIRE THE APPLICANT TO TAKE AN EXAMINATION.

32-4227. Fees

A. THE BOARD SHALL ESTABLISH AND COLLECT NONREFUNDABLE FEES THAT DO NOT EXCEED THE FOLLOWING:

1. TO APPLY FOR AN ORIGINAL LICENSE, TWO HUNDRED FIFTY DOLLARS.
2. TO RENEW A LICENSE, TWO HUNDRED FIFTY DOLLARS.
3. TO REINSTATE A LAPSED LICENSE, TWO HUNDRED FIFTY DOLLARS.
4. TO RENEW A LICENSE AFTER THE EXPIRATION DATE OF THE LICENSE, A DELINQUENCY FEE OF ONE HUNDRED TWENTY-FIVE DOLLARS.
5. FOR EACH DUPLICATE LICENSE, FIFTY DOLLARS.

1 6. FOR COPYING RECORDS, DOCUMENTS, LETTERS, MINUTES, APPLICATIONS AND
2 FILES, TWENTY-FIVE CENTS PER PAGE.

3 B. THE BOARD SHALL CHARGE ADDITIONAL FEES FOR SERVICES NOT REQUIRED
4 TO BE PROVIDED BY THIS CHAPTER BUT THAT THE BOARD DETERMINES ARE NECESSARY
5 AND APPROPRIATE TO CARRY OUT THIS CHAPTER. THE FEES SHALL NOT EXCEED THE
6 ACTUAL COST OF PROVIDING THESE SERVICES.

7 32-4228. Massage and bodywork therapy schools

8 A. THE BOARD SHALL:

9 1. RECOGNIZE ANY MASSAGE THERAPY OR BODYWORK THERAPY SCHOOL OR
10 TRAINING PROGRAM IN THIS STATE OFFERED BY A COMMUNITY COLLEGE OR APPROVED BY
11 THE STATE BOARD FOR PRIVATE POSTSECONDARY EDUCATION AS A BOARD APPROVED
12 SCHOOL.

13 2. ESTABLISH RULES FOR THE RECOGNITION OF MASSAGE AND BODYWORK THERAPY
14 SCHOOLS LOCATED IN ANOTHER STATE REGARDING WHETHER THE PROGRAM RECEIVED
15 APPROVAL FROM AN AGENCY SIMILAR TO THE STATE BOARD FOR PRIVATE POSTSECONDARY
16 EDUCATION AND WHETHER THE PROGRAM MEETS SUBSTANTIALLY EQUIVALENT REQUIREMENTS
17 TO THE REQUIREMENTS IMPOSED BY THE STATE BOARD FOR PRIVATE POSTSECONDARY
18 EDUCATION.

19 B. EACH SCHOOL LOCATED IN THIS STATE RECEIVING APPROVAL FROM THE STATE
20 BOARD FOR PRIVATE POSTSECONDARY EDUCATION REQUIREMENTS SHALL REPORT TO THE
21 BOARD OF MASSAGE THERAPY:

22 1. THE PHYSICAL ADDRESS OF THE SCHOOL AND EACH INSTRUCTIONAL FACILITY
23 MAINTAINED OR OPERATED BY THE SCHOOL.

24 2. ALL FACULTY AND INSTRUCTIONAL STAFF, AND ALL ADDITIONS OR DELETIONS
25 FROM THE FACULTY AND STAFF.

26 C. A SCHOOL LOCATED IN ANOTHER STATE THAT OFFERS A TRAINING PROGRAM
27 IN MASSAGE THERAPY OR BODYWORK THERAPY MAY MAKE APPLICATION FOR APPROVAL TO
28 THE BOARD OF MASSAGE THERAPY. THE BOARD OF MASSAGE THERAPY SHALL GRANT
29 APPROVAL TO A SCHOOL LOCATED IN ANOTHER STATE IF THE SCHOOL DEMONSTRATES THAT
30 THE SCHOOL RECEIVED APPROVAL FROM AN AGENCY SIMILAR TO THE STATE BOARD FOR
31 PRIVATE POSTSECONDARY EDUCATION AND THAT THE SCHOOL MEETS SUBSTANTIALLY
32 EQUIVALENT REQUIREMENTS TO THE REQUIREMENTS IMPOSED BY THE STATE BOARD FOR
33 PRIVATE POSTSECONDARY EDUCATION.

34 D. THE BOARD SHALL MAINTAIN A LIST OF APPROVED SCHOOLS.

35 ARTICLE 3. REGULATION

36 32-4251. Lawful practice

37 A. A MASSAGE THERAPIST SHALL REFER A PERSON REQUIRING A TREATMENT FOR
38 A CONDITION OUTSIDE THE SCOPE OF PRACTICE OF A MASSAGE THERAPIST TO ONE OR
39 MORE APPROPRIATE HEALTH CARE PRACTITIONERS IF THE MASSAGE THERAPIST HAS
40 REASONABLE CAUSE TO BELIEVE SYMPTOMS OR CONDITIONS ARE PRESENT THAT REQUIRE
41 SERVICES BEYOND THE SCOPE OF PRACTICE OF MASSAGE THERAPY OR IF MASSAGE
42 THERAPY IS CONTRAINDICATED.

43 B. A MASSAGE THERAPIST SHALL ADHERE TO THE RECOGNIZED STANDARDS AND
44 ETHICS OF THE MASSAGE THERAPY PROFESSION AND AS FURTHER ESTABLISHED BY RULE.

1 C. THIS CHAPTER DOES NOT AUTHORIZE A MESSAGE THERAPIST TO PRACTICE ANY
2 OTHER PROFESSION REGULATED UNDER THIS TITLE AND DOES NOT EXPAND THE SCOPE OF
3 PRACTICE OF ANY HEALTH CARE PROVIDER WHO IS NOT LICENSED PURSUANT TO THIS
4 CHAPTER BUT WHO IS LICENSED PURSUANT TO THIS TITLE.

5 32-4252. Use of title; restrictions; violation; classification

6 A. NO PERSON MAY CLAIM TO BE A MESSAGE THERAPIST OR USE ANY TERMS OR
7 REFERENCES IN ANY ADVERTISEMENT, STATEMENT OR PUBLICATION TO SUGGEST TO THE
8 PUBLIC THAT THE PERSON IS A MESSAGE THERAPIST UNLESS THAT PERSON IS A MESSAGE
9 THERAPIST LICENSED PURSUANT TO THIS CHAPTER.

10 B. THE BOARD MAY ADOPT RULES TO IMPLEMENT THIS SECTION INCLUDING THE
11 IDENTIFICATION OF REFERENCES THAT MAY BE USED ONLY BY PERSONS LICENSED UNDER
12 THIS CHAPTER OR EXEMPT FROM LENSURE UNDER THIS CHAPTER.

13 C. A PERSON WHO IS NOT LICENSED PURSUANT TO THIS CHAPTER SHALL NOT USE
14 ANY OF THESE TITLES OR ABBREVIATIONS OR ANY OTHER ABBREVIATION OR OTHER
15 WORDS, LETTERS, SIGNS OR FIGURES TO INDICATE THAT THE PERSON USING THE TITLE
16 IS LICENSED PURSUANT TO THIS CHAPTER.

17 D. AN ESTABLISHMENT OR BUSINESS THAT EMPLOYS OR CONTRACTS WITH PERSONS
18 WHO ARE LICENSED UNDER THIS CHAPTER SHALL NOT ADVERTISE ON BEHALF OF THOSE
19 PERSONS UNLESS THE SERVICES ARE PROVIDED BY OR UNDER THE DIRECT SUPERVISION
20 OF A PERSON LICENSED PURSUANT TO THIS CHAPTER.

21 E. A PERSON OR ENTITY THAT VIOLATES THIS SECTION IS GUILTY OF A CLASS
22 1 MISDEMEANOR.

23 32-4253. Disciplinary action; grounds; definitions

24 A. THE FOLLOWING ARE GROUNDS FOR DISCIPLINARY ACTION:

25 1. FAILING TO MEET OR MAINTAIN THE REQUIREMENTS FOR AN ORIGINAL
26 LICENSE UNDER SECTION 32-4222, SUBSECTION A.

27 2. USING FRAUD, DECEIT OR MISREPRESENTATION IN OBTAINING OR ATTEMPTING
28 TO OBTAIN A LICENSE OR THE RENEWAL OR REINSTATEMENT OF A LICENSE.

29 3. USING DRUGS OR INTOXICATING LIQUORS TO AN EXTENT THAT AFFECTS
30 PROFESSIONAL COMPETENCY.

31 4. CONVICTION OF A FELONY OR OTHER OFFENSE INVOLVING MORAL TURPITUDE
32 OR ANY CONVICTION FOR PROSTITUTION, SOLICITATION OR ANOTHER SIMILAR OFFENSE.
33 A CONVICTION BY A COURT OF COMPETENT JURISDICTION IS CONCLUSIVE EVIDENCE OF
34 THE COMMISSION OF THE CRIME.

35 5. HAVING BEEN FOUND MENTALLY INCOMPETENT BY A COURT OF COMPETENT
36 JURISDICTION UNTIL PROOF OF RECOVERY FROM THE CONDITION CAN BE ESTABLISHED.

37 6. ENGAGING IN ANY ACT OR PRACTICE IN VIOLATION OF THIS CHAPTER OR ANY
38 BOARD RULE OR AIDING, ABETTING OR ASSISTING ANY OTHER PERSON IN THE VIOLATION
39 OF THESE PROVISIONS OR RULES.

40 7. HAVING HAD A LICENSE OR CERTIFICATE REVOKED OR SUSPENDED OR ANY
41 OTHER DISCIPLINARY ACTION TAKEN OR AN APPLICATION FOR LENSURE OR
42 CERTIFICATION REFUSED, REVOKED OR SUSPENDED BY THE PROPER AUTHORITIES OF
43 ANOTHER STATE, TERRITORY OR COUNTRY.

44 8. COMMITTING AN ACT OF MALPRACTICE, GROSS NEGLIGENCE OR INCOMPETENCY.

1 9. PRACTICING AS A LICENSEE UNDER THIS CHAPTER WITHOUT AN ACTIVE
2 LICENSE.

3 10. ENGAGING IN CONDUCT THAT COULD RESULT IN HARM OR INJURY TO THE
4 PUBLIC.

5 11. USING FRAUD, DECEIT OR MISREPRESENTATION WHEN COMMUNICATING WITH
6 THE GENERAL PUBLIC, HEALTH CARE PROFESSIONALS OR OTHER BUSINESS
7 PROFESSIONALS.

8 12. FALSELY HOLDING OUT ONESELF AS LICENSED OR CERTIFIED IN ANY
9 DISCIPLINE OF MASSAGE THERAPY WITHOUT SUCCESSFULLY COMPLETING TRAINING
10 APPROVED BY THE BOARD IN THAT SPECIALTY.

11 13. PRACTICING OR OFFERING TO PRACTICE BEYOND THE SCOPE OF THE PRACTICE
12 OF MASSAGE THERAPY.

13 14. ENGAGING IN THE PERFORMANCE OF SUBSTANDARD CARE BY A MASSAGE
14 THERAPIST DUE TO A DELIBERATE OR NEGLIGENT ACT OR FAILURE TO ACT, REGARDLESS
15 OF WHETHER ACTUAL INJURY TO THE PERSON CARED FOR IS ESTABLISHED.

16 15. ENGAGING IN SEXUAL ACTIVITY WITH A CLIENT.

17 16. FAILING TO ADHERE TO THE RECOGNIZED STANDARDS AND ETHICS OF THE
18 MASSAGE THERAPY PROFESSION.

19 17. CHARGING UNREASONABLE OR FRAUDULENT FEES FOR SERVICES PERFORMED OR
20 NOT PERFORMED.

21 18. AIDING OR ABETTING A PERSON WHO IS NOT LICENSED IN THIS STATE AND
22 WHO DIRECTLY OR INDIRECTLY PERFORMS ACTIVITIES REQUIRING A LICENSE.

23 19. FAILING TO REPORT TO THE BOARD ANY ACT OR OMISSION OF A LICENSEE
24 OR APPLICANT OR ANY OTHER PERSON WHO VIOLATES THIS CHAPTER.

25 20. INTERFERING WITH AN INVESTIGATION OR DISCIPLINARY PROCEEDING BY
26 WILFUL MISREPRESENTATION OF FACTS OR BY THE USE OF THREATS OR HARASSMENT
27 AGAINST ANY PERSON TO PREVENT THAT PERSON FROM PROVIDING EVIDENCE IN A
28 DISCIPLINARY PROCEEDING OR ANY LEGAL ACTION.

29 21. PROMOTING AN UNNECESSARY DEVICE, TREATMENT OR SERVICE FOR THE
30 FINANCIAL GAIN OF THE MASSAGE THERAPIST OR OF A THIRD PARTY.

31 22. PROVIDING MASSAGE THERAPY SERVICES THAT ARE IN ANY WAY LINKED TO
32 THE FINANCIAL GAIN OF A REFERRAL SOURCE.

33 23. VIOLATING THIS CHAPTER, BOARD RULES OR A WRITTEN ORDER OF THE
34 BOARD.

35 B. FOR THE PURPOSES OF THIS SECTION:

36 1. "BREAST" MEANS ANY PORTION OF THE FEMALE BREAST BELOW A POINT
37 IMMEDIATELY ABOVE THE TOP OF THE AREOLA.

38 2. "SEXUAL ACTIVITY" MEANS ANY OF THE FOLLOWING:

39 (a) SEXUAL CONDUCT.

40 (b) OFFERING TO ENGAGE IN SEXUAL CONDUCT.

41 (c) MAKING SEXUAL ADVANCES, REQUESTING SEXUAL FAVORS OR ENGAGING IN
42 OTHER VERBAL CONDUCT OR PHYSICAL CONTACT OF A SEXUAL NATURE WITH A CLIENT.

43 (d) INTENTIONALLY VIEWING A COMPLETELY OR PARTIALLY DISROBED PATIENT
44 IN THE COURSE OF TREATMENT IF THE VIEWING IS NOT RELATED TO TREATMENT UNDER
45 CURRENT PRACTICE STANDARDS.

1 (e) MASSAGING, TOUCHING OR APPLYING ANY INSTRUMENT OR DEVICE BY A
2 LICENSEE IN THE COURSE OF PRACTICING OR ENGAGING IN MASSAGE THERAPY TO THE
3 BREASTS OF A FEMALE CLIENT UNLESS THE CLIENT REQUESTS BREAST MASSAGE AND
4 SIGNS A WRITTEN CONSENT FORM. IF THE CLIENT IS A MINOR, THE CONSENT FORM
5 MUST INCLUDE THE SIGNATURE OF THE CLIENT'S PARENT OR LEGAL GUARDIAN
6 AUTHORIZING THE PROCEDURE AND OUTLINING THE REASON FOR THE PROCEDURE BEFORE
7 THE PROCEDURE IS PERFORMED.

8 (f) ASKING OR DIRECTING A MASSAGE THERAPY CLIENT OR PROSPECTIVE CLIENT
9 TO TOUCH THE CLIENT'S OWN ANUS OR GENITALS OR TO TOUCH THE ANUS, GENITALS OR
10 FEMALE BREASTS OF ANY OTHER PERSON.

11 (g) ASKING OR DIRECTING A MASSAGE THERAPY CLIENT OR PROSPECTIVE CLIENT
12 TO EXPOSE THE CLIENT'S OWN ANUS OR GENITALS TO THE MASSAGE THERAPIST OR ANY
13 OTHER PERSON.

14 (h) FOR A MASSAGE THERAPIST TO EXPOSE THE MASSAGE THERAPIST'S ANUS OR
15 GENITALS TO A CLIENT.

16 (i) FOR A MASSAGE THERAPIST TO EXPOSE HER BREASTS TO A CLIENT.

17 3. "SEXUAL CONDUCT" MEANS ANY DIRECT OR INDIRECT TOUCHING, FONDLING
18 OR MANIPULATING OF ANY PART OF THE GENITALS OR ANUS BY ANY PART OF THE BODY
19 OR BY ANY OBJECT OR CAUSING A PERSON TO ENGAGE IN THAT CONDUCT.

20 32-4254. Investigative powers; emergency action; disciplinary
21 proceedings; formal interview; hearing; civil
22 penalty

23 A. THE BOARD ON ITS OWN MOTION MAY INVESTIGATE ANY EVIDENCE THAT
24 APPEARS TO SHOW THAT A LICENSEE IS OR MAY BE INCOMPETENT OR IS OR MAY BE
25 SUBJECT TO DISCIPLINE UNDER THIS CHAPTER. ON WRITTEN REQUEST OF A
26 COMPLAINANT, THE BOARD SHALL REVIEW A COMPLAINT AND TAKE ANY ACTION IT DEEMS
27 APPROPRIATE. THE BOARD OR THE EXECUTIVE DIRECTOR SHALL NOTIFY THE LICENSEE
28 AS TO THE CONTENT OF THE COMPLAINT AS SOON AS REASONABLE. A LICENSEE SHALL,
29 AND ANY OTHER PERSON MAY, REPORT TO THE BOARD ANY INFORMATION THE PERSON MAY
30 HAVE THAT APPEARS TO SHOW GROUNDS FOR DISCIPLINARY ACTION AGAINST A LICENSEE.
31 ANY PERSON OR ENTITY THAT REPORTS OR PROVIDES INFORMATION TO THE BOARD IN
32 GOOD FAITH IS NOT SUBJECT TO AN ACTION FOR CIVIL DAMAGES. IF REQUESTED, THE
33 BOARD SHALL NOT DISCLOSE THE NAME OF A PERSON WHO SUPPLIES INFORMATION
34 REGARDING A LICENSEE'S DRUG OR ALCOHOL IMPAIRMENT. IT IS AN ACT OF
35 UNPROFESSIONAL CONDUCT FOR ANY LICENSEE TO FAIL TO REPORT AS REQUIRED BY THIS
36 SECTION.

37 B. IF THE BOARD FINDS, BASED ON THE INFORMATION IT RECEIVES UNDER
38 SUBSECTION A OF THIS SECTION, THAT THE PUBLIC HEALTH, SAFETY OR WELFARE
39 REQUIRES EMERGENCY ACTION AND INCORPORATES A FINDING TO THAT EFFECT IN ITS
40 ORDER, THE BOARD MAY RESTRICT, LIMIT OR ORDER A SUMMARY SUSPENSION OF A
41 LICENSE PENDING PROCEEDINGS FOR REVOCATION OR OTHER ACTION. IF THE BOARD
42 TAKES ACTION PURSUANT TO THIS SUBSECTION, IT SHALL ALSO SERVE THE LICENSEE
43 WITH A WRITTEN NOTICE THAT STATES THE CHARGES AND THAT THE LICENSEE IS
44 ENTITLED TO A FORMAL HEARING BEFORE THE BOARD OR AN ADMINISTRATIVE LAW JUDGE
45 WITHIN SIXTY DAYS.

1 C. IF, AFTER COMPLETING ITS INVESTIGATION, THE BOARD FINDS THAT THE
2 INFORMATION PROVIDED PURSUANT TO SUBSECTION A OF THIS SECTION IS NOT OF
3 SUFFICIENT SERIOUSNESS TO MERIT DISCIPLINARY ACTION AGAINST THE LICENSE OF
4 THE LICENSEE, THE BOARD OR A BOARD COMMITTEE MAY TAKE EITHER OF THE FOLLOWING
5 NONDISCIPLINARY ACTIONS:

6 1. DISMISS IF, IN THE OPINION OF THE BOARD, THE INFORMATION IS WITHOUT
7 MERIT.

8 2. FILE AN ADVISORY LETTER. THE LICENSEE MAY FILE A WRITTEN RESPONSE
9 WITH THE BOARD WITHIN THIRTY DAYS AFTER RECEIVING THE ADVISORY LETTER.

10 D. IF THE BOARD FINDS THAT IT CAN TAKE REHABILITATIVE OR DISCIPLINARY
11 ACTION WITHOUT THE PRESENCE OF THE LICENSEE AT A FORMAL INTERVIEW IT MAY
12 ENTER INTO A CONSENT AGREEMENT WITH THE LICENSEE TO LIMIT OR RESTRICT THE
13 LICENSEE'S PRACTICE OR TO REHABILITATE THE LICENSEE, PROTECT THE PUBLIC AND
14 ENSURE THE LICENSEE'S ABILITY TO SAFELY ENGAGE IN THE PRACTICE OF MASSAGE
15 THERAPY. THE BOARD MAY ALSO REQUIRE THE LICENSEE TO SUCCESSFULLY COMPLETE
16 A BOARD APPROVED REHABILITATIVE, RETRAINING, CONTINUING EDUCATION OR
17 ASSESSMENT PROGRAM.

18 E. IF, AFTER COMPLETING ITS INVESTIGATION, THE BOARD BELIEVES THAT THE
19 INFORMATION IS OR MAY BE TRUE, IT MAY REQUEST A FORMAL INTERVIEW WITH THE
20 LICENSEE. IF THE LICENSEE REFUSES THE INVITATION FOR A FORMAL INTERVIEW OR
21 ACCEPTS AND THE RESULTS INDICATE THAT GROUNDS MAY EXIST FOR REVOCATION OR
22 SUSPENSION OF THE LICENSEE'S LICENSE FOR MORE THAN TWELVE MONTHS, THE BOARD
23 SHALL ISSUE A FORMAL COMPLAINT AND ORDER THAT A HEARING BE HELD PURSUANT TO
24 TITLE 41, CHAPTER 6, ARTICLE 10. IF, AFTER COMPLETING A FORMAL INTERVIEW,
25 THE BOARD FINDS THAT THE PROTECTION OF THE PUBLIC REQUIRES EMERGENCY ACTION,
26 IT MAY ORDER A SUMMARY SUSPENSION OF THE LICENSE PENDING FORMAL REVOCATION
27 PROCEEDINGS OR OTHER ACTION AUTHORIZED BY THIS SECTION.

28 F. IF, AFTER COMPLETING THE FORMAL INTERVIEW, THE BOARD FINDS THE
29 INFORMATION PROVIDED UNDER SUBSECTION A OF THIS SECTION IS NOT OF SUFFICIENT
30 SERIOUSNESS TO MERIT SUSPENSION FOR MORE THAN TWELVE MONTHS OR REVOCATION OF
31 THE LICENSE, IT MAY TAKE ONE OR MORE OF THE FOLLOWING ACTIONS:

32 1. DISMISS IF, IN THE OPINION OF THE BOARD, THE COMPLAINT IS WITHOUT
33 MERIT.

34 2. FILE AN ADVISORY LETTER. THE LICENSEE MAY FILE A WRITTEN RESPONSE
35 WITH THE BOARD WITHIN THIRTY DAYS AFTER THE LICENSEE RECEIVES THE ADVISORY
36 LETTER.

37 3. FILE A LETTER OF REPRIMAND.

38 4. ISSUE A DECREE OF CENSURE. A DECREE OF CENSURE IS AN OFFICIAL
39 ACTION AGAINST THE LICENSEE'S LICENSE.

40 5. FIX A PERIOD AND TERMS OF PROBATION BEST ADAPTED TO PROTECT THE
41 PUBLIC HEALTH AND SAFETY AND TO REHABILITATE OR EDUCATE THE LICENSEE
42 CONCERNED. PROBATION MAY INCLUDE TEMPORARY SUSPENSION NOT TO EXCEED TWELVE
43 MONTHS OR RESTRICTION OF THE LICENSEE'S LICENSE TO PRACTICE MASSAGE
44 THERAPY. IF A LICENSEE FAILS TO COMPLY WITH THE TERMS OF PROBATION THE BOARD
45 SHALL SERVE THE LICENSEE WITH A WRITTEN NOTICE THAT STATES THAT THE LICENSEE

1 IS SUBJECT TO A FORMAL HEARING BASED ON THE INFORMATION CONSIDERED BY THE
2 BOARD AT THE FORMAL INTERVIEW AND ON ANY OTHER ACTS OR CONDUCT ALLEGED TO BE
3 IN VIOLATION OF THIS CHAPTER OR RULES ADOPTED PURSUANT TO THIS CHAPTER,
4 INCLUDING NONCOMPLIANCE WITH THE TERMS OF PROBATION, A CONSENT AGREEMENT OR
5 A STIPULATED AGREEMENT.

6 6. ENTER INTO AN AGREEMENT WITH THE LICENSEE TO RESTRICT OR LIMIT THE
7 LICENSEE'S PRACTICE IN ORDER TO REHABILITATE, RETRAIN OR ASSESS THE LICENSEE,
8 PROTECT THE PUBLIC AND ENSURE THE LICENSEE'S ABILITY TO SAFELY ENGAGE IN THE
9 PRACTICE OF MASSAGE THERAPY.

10 7. ORDER THE PAYMENT OF RESTITUTION, INCLUDING AN ORDER TO REPAY FEES
11 PAID BY A MASSAGE THERAPY CLIENT AND FOR THE COST OF THE INVESTIGATION.

12 G. IF THE BOARD FINDS THAT THE INFORMATION PROVIDED IN SUBSECTION A
13 OR F OF THIS SECTION WARRANTS SUSPENSION OR REVOCATION OF A LICENSE ISSUED
14 PURSUANT TO THIS CHAPTER, IT SHALL INITIATE FORMAL PROCEEDINGS PURSUANT TO
15 TITLE 41, CHAPTER 6, ARTICLE 10. IF AFTER A FORMAL PROCEEDING THE BOARD
16 FINDS THAT A LICENSEE HAS BEEN CONVICTED OF PROSTITUTION, SOLICITATION OR
17 ANOTHER SIMILAR OFFENSE, THE BOARD SHALL REVOKE THE LICENSE.

18 H. IN A FORMAL INTERVIEW PURSUANT TO SUBSECTION E OF THIS SECTION OR
19 IN A HEARING PURSUANT TO SUBSECTION G OF THIS SECTION, THE BOARD IN ADDITION
20 TO ANY OTHER ACTION MAY IMPOSE A CIVIL PENALTY OF AT LEAST ONE THOUSAND
21 DOLLARS BUT NOT MORE THAN TEN THOUSAND DOLLARS FOR EACH VIOLATION OF THIS
22 CHAPTER OR A RULE ADOPTED PURSUANT TO THIS CHAPTER.

23 I. AN ADVISORY LETTER IS A PUBLIC DOCUMENT.

24 J. A LICENSEE WHO AFTER A FORMAL HEARING IS FOUND BY THE BOARD TO BE
25 SUBJECT TO DISCIPLINE PURSUANT TO THIS CHAPTER IS SUBJECT TO CENSURE,
26 PROBATION OR RESTITUTION AS PROVIDED IN THIS SECTION, SUSPENSION OR
27 REVOCATION OF LICENSE OR ANY COMBINATION OF THESE, INCLUDING A STAY OF
28 ACTION, FOR A PERIOD OF TIME OR PERMANENTLY AND UNDER CONDITIONS THE BOARD
29 DEEMS APPROPRIATE FOR THE PROTECTION OF THE PUBLIC HEALTH AND SAFETY AND JUST
30 IN THE CIRCUMSTANCE. THE BOARD MAY CHARGE THE COSTS OF FORMAL HEARINGS TO
31 A LICENSEE WHO IT FINDS TO BE IN VIOLATION OF THIS CHAPTER.

32 K. IF THE BOARD, DURING THE COURSE OF ANY INVESTIGATION, DETERMINES
33 THAT A CRIMINAL VIOLATION INVOLVING THE PRACTICE OF MASSAGE THERAPY MAY HAVE
34 OCCURRED, IT SHALL MAKE THE EVIDENCE OF A VIOLATION AVAILABLE TO THE
35 APPROPRIATE CRIMINAL JUSTICE AGENCY FOR ITS CONSIDERATION.

36 L. THE BOARD SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
37 ALL MONIES IT COLLECTS FROM CIVIL PENALTIES PAID PURSUANT TO THIS SECTION IN
38 THE STATE GENERAL FUND.

39 M. NOTICE OF A COMPLAINT AND HEARING IS EFFECTIVE BY A TRUE COPY OF
40 IT BEING SENT BY CERTIFIED MAIL TO THE LICENSEE'S LAST KNOWN ADDRESS OF
41 RECORD IN THE BOARD'S FILES. NOTICE OF THE COMPLAINT AND HEARING IS COMPLETE
42 ON THE DATE OF ITS DEPOSIT IN THE MAIL. THE BOARD SHALL BEGIN A FORMAL
43 HEARING WITHIN ONE HUNDRED TWENTY DAYS AFTER THAT DATE.

44 N. THE BOARD MAY ACCEPT THE SURRENDER OF A LICENSE FROM A PERSON WHO
45 ADMITS IN WRITING TO ANY OF THE FOLLOWING:

1 1. BEING UNABLE TO SAFELY ENGAGE IN THE PRACTICE OF MASSAGE THERAPY.
2 2. HAVING COMMITTED AN ACT SUBJECT TO DISCIPLINE PURSUANT TO THIS
3 CHAPTER.

4 3. HAVING VIOLATED THIS CHAPTER OR A BOARD RULE.
5 0. IN DETERMINING THE APPROPRIATE DISCIPLINARY ACTION UNDER THIS
6 SECTION, THE BOARD SHALL CONSIDER ALL PREVIOUS NONDISCIPLINARY AND
7 DISCIPLINARY ACTIONS AGAINST A LICENSEE.

8 32-4255. Unlawful practice; violation; classification; civil
9 penalties; injunctive relief

10 A. IT IS UNLAWFUL FOR ANY PERSON TO PRACTICE OR IN ANY MANNER TO CLAIM
11 TO PRACTICE MASSAGE THERAPY UNLESS THAT PERSON IS LICENSED PURSUANT TO THIS
12 CHAPTER. A PERSON WHO ENGAGES IN AN ACTIVITY REQUIRING A LICENSE PURSUANT
13 TO THIS CHAPTER OR WHO USES ANY WORD, TITLE OR REPRESENTATION IN VIOLATION
14 OF SECTION 32-4252 THAT IMPLIES THAT THE PERSON IS LICENSED TO ENGAGE IN THE
15 PRACTICE OF MASSAGE THERAPY IS GUILTY OF A CLASS 1 MISDEMEANOR.

16 B. THE BOARD MAY INVESTIGATE ANY PERSON TO THE EXTENT NECESSARY TO
17 DETERMINE IF THE PERSON IS ENGAGED IN THE UNLAWFUL PRACTICE OF MASSAGE
18 THERAPY. IF AN INVESTIGATION INDICATES THAT A PERSON MAY BE PRACTICING
19 MASSAGE THERAPY UNLAWFULLY, THE BOARD SHALL INFORM THE PERSON OF THE ALLEGED
20 VIOLATION. THE BOARD MAY REFER THE MATTER FOR PROSECUTION REGARDLESS OF
21 WHETHER THE PERSON CEASES THE UNLAWFUL PRACTICE OF MASSAGE THERAPY.

22 C. THE BOARD, THROUGH THE APPROPRIATE COUNTY ATTORNEY, CITY ATTORNEY
23 OR THE OFFICE OF THE ATTORNEY GENERAL, MAY APPLY FOR INJUNCTIVE RELIEF IN ANY
24 COURT OF COMPETENT JURISDICTION OR ENJOIN ANY PERSON FROM COMMITTING ANY ACT
25 IN VIOLATION OF THIS CHAPTER. INJUNCTIVE PROCEEDINGS ARE IN ADDITION TO ALL
26 PENALTIES AND OTHER REMEDIES PRESCRIBED IN THIS CHAPTER.

27 D. A PERSON WHO AIDS OR REQUIRES ANOTHER PERSON TO DIRECTLY OR
28 INDIRECTLY VIOLATE THIS CHAPTER OR BOARD RULES, WHO PERMITS A LICENSE TO BE
29 USED BY ANOTHER PERSON OR WHO ACTS WITH THE INTENT TO VIOLATE THIS CHAPTER
30 OR BOARD RULES IS SUBJECT TO A CIVIL PENALTY OF NOT MORE THAN ONE THOUSAND
31 DOLLARS FOR EACH VIOLATION AND NOT MORE THAN FIVE THOUSAND DOLLARS FOR EACH
32 SUBSEQUENT VIOLATION. THE BOARD SHALL HOLD A HEARING BEFORE IT IMPOSES THIS
33 PENALTY.

34 E. THE BOARD SHALL DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147,
35 ALL MONIES IT COLLECTS FROM CIVIL PENALTIES PURSUANT TO THIS SECTION IN THE
36 STATE GENERAL FUND.

37 32-4256. Reporting violations; immunity

38 A. A PERSON, LICENSEE, CORPORATION, EDUCATIONAL INSTITUTION, HEALTH
39 CARE PROFESSIONAL OR HEALTH CARE FACILITY AND STATE OR LOCAL GOVERNMENTAL
40 AGENCIES MUST REPORT TO THE BOARD ANY CONVICTION, DETERMINATION OR FINDING
41 THAT A LICENSEE HAS COMMITTED AN ACT THAT CONSTITUTES GROUNDS FOR
42 DISCIPLINARY ACTION PURSUANT TO SECTION 32-4253.

43 B. A PERSON IS IMMUNE FROM CIVIL LIABILITY, WHETHER DIRECT OR
44 DERIVATIVE, FOR PROVIDING INFORMATION IN GOOD FAITH TO THE BOARD PURSUANT TO
45 SUBSECTION A OF THIS SECTION.

1 C. THE BOARD SHALL NOT DISCLOSE THE IDENTITY OF A PERSON WHO PROVIDES
2 INFORMATION UNLESS THIS INFORMATION IS ESSENTIAL TO PROCEEDINGS CONDUCTED
3 PURSUANT TO SECTIONS 32-4254 AND 32-4255 OR UNLESS REQUIRED BY A COURT.

4 32-4257. Third party reimbursement

5 THIS CHAPTER DOES NOT REQUIRE DIRECT THIRD PARTY REIMBURSEMENT TO ANY
6 PERSON LICENSED PURSUANT TO THIS CHAPTER.

7 32-4258. Regulation by county or municipality

8 A. THIS CHAPTER DOES NOT PROHIBIT A COUNTY OR MUNICIPALITY FROM
9 ADOPTING AND ENFORCING REGULATIONS AFFECTING THE ESTABLISHMENTS, LOCATIONS
10 OR SETTINGS IN WHICH INDIVIDUALS, ENTITIES OR BUSINESSES ENGAGE IN THE
11 PRACTICE OF MASSAGE THERAPY.

12 B. A COUNTY OR MUNICIPALITY SHALL NOT IMPOSE REGULATIONS THAT ARE
13 INCONSISTENT WITH THIS CHAPTER.

14 32-4259. Right of consumers; confidential information; display
15 of license

16 A. ANY PERSON HAS ACCESS TO THE FOLLOWING INFORMATION:

17 1. A LIST OF LICENSEES THAT INCLUDES THE LICENSEE'S PLACE OF PRACTICE,
18 LICENSE NUMBER, DATE OF LICENSE EXPIRATION AND STATUS OF LICENSE.

19 2. A LIST OF OFFICIAL ACTIONS TAKEN BY THE BOARD.

20 B. UNLESS THEY ARE THE ONLY ADDRESS AND TELEPHONE NUMBER AVAILABLE,
21 THE HOME ADDRESS AND HOME TELEPHONE NUMBER OF A MASSAGE THERAPIST ARE NOT
22 PUBLIC RECORDS AND THE BOARD SHALL KEEP THIS INFORMATION CONFIDENTIAL.

23 C. EXCEPT IN THE COURSE OF A BOARD INVESTIGATION, INFORMATION
24 PERTAINING TO THE RELATIONSHIP BETWEEN THE MASSAGE THERAPIST AND A PERSON
25 TREATED BY THE MASSAGE THERAPIST IS CONFIDENTIAL AND MAY NOT BE COMMUNICATED
26 TO A THIRD PARTY WHO IS NOT INVOLVED IN THAT PERSON'S CARE WITHOUT THAT
27 PERSON'S PRIOR WRITTEN CONSENT. IF THE PERSON IS A MINOR, THE PERSON'S
28 PARENT OR GUARDIAN MUST ALSO GIVE WRITTEN CONSENT TO THESE COMMUNICATIONS.

29 D. THE MASSAGE THERAPIST MUST DIVULGE TO THE BOARD INFORMATION IT
30 REQUIRES IN CONNECTION WITH ANY INVESTIGATION, PUBLIC HEARING OR PROCEEDING,
31 INCLUDING INFORMATION THAT IS OTHERWISE CONFIDENTIAL PURSUANT TO THIS
32 SECTION.

33 E. THE PRIVILEGE ESTABLISHED BY THIS SECTION DOES NOT EXTEND TO CASES
34 IN WHICH THE MASSAGE THERAPIST HAS A DUTY TO REPORT INFORMATION AS REQUIRED
35 BY LAW.

36 F. THE BOARD SHALL PROVIDE ACCESS TO THE APPLICATION, LICENSE,
37 INVESTIGATION AND DISCIPLINE FILES MAINTAINED BY THE BOARD TO LAW ENFORCEMENT
38 AGENCIES AND OTHER REGULATORY AGENCIES OF THIS STATE.

39 G. EACH LICENSEE SHALL DISPLAY A COPY OF THE LICENSEE'S LICENSE OR
40 CURRENT RENEWAL VERIFICATION IN AN ESTABLISHMENT, LOCATION OR SETTING THAT
41 IS ACCESSIBLE TO PUBLIC VIEW AT EACH LOCATION AT WHICH THE LICENSEE PRACTICES
42 MASSAGE THERAPY.

1 Sec. 4. Section 41-1092, Arizona Revised Statutes, is amended to read:
2 41-1092. Definitions
3 In this article, unless the context otherwise requires:
4 1. "Administrative law judge" means an individual or an agency head,
5 board or commission that sits as an administrative law judge, that conducts
6 administrative hearings in a contested case or an appealable agency action
7 and that makes decisions regarding the contested case or appealable agency
8 action.
9 2. "Administrative law judge decision" means the findings of fact,
10 conclusions of law and recommendations or decisions issued by an
11 administrative law judge.
12 3. "Appealable agency action" means an action that determines the
13 legal rights, duties or privileges of a party and that is not preceded by an
14 opportunity for an administrative hearing. Appealable agency actions do not
15 include interim orders by self-supporting regulatory boards or rules, orders,
16 standards or statements of policy of general application issued by an
17 administrative agency to implement, interpret or make specific the
18 legislation enforced or administered by it, nor does it mean or include rules
19 concerning the internal management of the agency that do not affect private
20 rights or interests. For the purposes of this paragraph, "administrative
21 hearing" does not include a public hearing held for the purpose of receiving
22 public comment on a proposed agency action.
23 4. "Director" means the director of the office of administrative
24 hearings.
25 5. "Final administrative decision" means a decision by an agency that
26 is subject to judicial review pursuant to title 12, chapter 7, article 6.
27 6. "Office" means the office of administrative hearings.
28 7. "Self-supporting regulatory board" means any one of the following:
29 (a) The state board of accountancy.
30 (b) The state board of appraisal.
31 (c) The board of barbers.
32 (d) The board of behavioral health examiners.
33 (e) The Arizona state boxing commission.
34 (f) The state board of chiropractic examiners.
35 (g) The board of cosmetology.
36 (h) The state board of dental examiners.
37 (i) The state board of funeral directors and embalmers.
38 (j) The Arizona game and fish commission.
39 (k) The board of homeopathic medical examiners.
40 (l) The Arizona medical board.
41 (m) The naturopathic physicians board of medical examiners.
42 (n) The state board of nursing.
43 (o) The board of examiners of nursing care institution administrators
44 and adult care home managers.

- 1 (p) The board of occupational therapy examiners.
- 2 (q) The state board of dispensing opticians.
- 3 (r) The state board of optometry.
- 4 (s) The Arizona board of osteopathic examiners in medicine and
- 5 surgery.
- 6 (t) The Arizona peace officer standards and training board.
- 7 (u) The Arizona state board of pharmacy.
- 8 (v) The board of physical therapy examiners.
- 9 (w) The state board of podiatry examiners.
- 10 (x) The state board for private postsecondary education.
- 11 (y) The state board of psychologist examiners.
- 12 (z) The board of respiratory care examiners.
- 13 (aa) The structural pest control commission.
- 14 (bb) The state board of technical registration.
- 15 (cc) The Arizona state veterinary medical examining board.
- 16 (dd) The acupuncture board of examiners.
- 17 (ee) The regulatory board of physician assistants.
- 18 (ff) The board of athletic training.
- 19 (gg) THE BOARD OF MASSAGE THERAPY.

20 Sec. 5. Title 41, chapter 27, article 2, Arizona Revised Statutes, is
21 amended by adding section 41-3013.01, to read:

22 41-3013.01. Board of massage therapy; termination July 1, 2013

23 A. THE BOARD OF MASSAGE THERAPY TERMINATES ON JULY 1, 2013.

24 B. TITLE 32, CHAPTER 42 IS REPEALED ON JANUARY 1, 2014.

25 Sec. 6. Initial terms of members of the board of massage
26 therapy

27 A. Notwithstanding section 32-4202, Arizona Revised Statutes, as added
28 by this act, the initial terms of members of the board of massage therapy
29 are:

30 1. One term ending in January 2004.

31 2. One term ending in January 2005.

32 3. One term ending in January 2006.

33 4. One term ending in January 2007.

34 5. One term ending in January 2008.

35 B. The governor shall make all subsequent appointments as prescribed
36 by statute.

37 Sec. 7. Transfer and appropriation; purpose; repayment

38 A. The sum of \$75,000 is transferred from the naturopathic physicians
39 board of medical examiners fund in fiscal year 2003-2004 and appropriated to
40 the separate account for the board of massage therapy established pursuant
41 to section 32-1505, Arizona Revised Statutes, as amended by this act, for
42 start-up and operating costs of the board.

1 B. Notwithstanding section 32-4205, Arizona Revised Statutes, as added
2 by this act, until all monies appropriated pursuant to subsection A of this
3 section are repaid to the naturopathic physicians board of medical examiners
4 fund, the board of massage therapy shall deposit:

5 1. Ten per cent of the monies collected in the state general fund.

6 2. Ten per cent of the monies collected in the naturopathic physicians
7 board of medical examiners fund to repay that fund for the appropriation made
8 in subsection A of this section.

9 3. The remaining eighty per cent of monies collected in the separate
10 account for the board of massage therapy.

11 C. If the monies are not repaid in full on or before June 30, 2006,
12 the department of administration shall transfer from the separate account for
13 the board of massage therapy to the naturopathic physicians board of medical
14 examiners fund monies as necessary to repay in full the amount appropriated
15 in subsection A of this section. If the amount of monies remaining in the
16 board of massage therapy account on that date is less than the remaining
17 amount owed to the naturopathic physicians board of medical examiners fund
18 for the appropriation made in subsection A of this section, the board of
19 massage therapy shall continue to deposit the additional ten per cent of
20 monies collected after that date until the amount is fully repaid. The
21 department of administration shall charge interest to the separate account
22 for the board of massage therapy on the naturopathic physicians board of
23 medical examiners monies at the rate that is determined by the state
24 treasurer and that equals the average rate that monies would have earned
25 through investment if they had been state general fund monies.

26 Sec. 8. Purpose

27 Pursuant to section 41-2955, subsection E, Arizona Revised Statutes,
28 the legislature establishes the board of massage therapy to promote the
29 practice of massage therapy by qualified professionals and to establish a
30 comprehensive statewide licensing authority to replace redundant licensing
31 and fee collection by local jurisdictions.

32 Sec. 9. Requirements for enactment; two-thirds vote

33 Pursuant to article IX, section 22, Constitution of Arizona, this act
34 is effective only on the affirmative vote of at least two-thirds of the
35 members of each house of the legislature and is effective immediately on the
36 signature of the governor or, if the governor vetoes this act, on the
37 subsequent affirmative vote of at least three-fourths of the members of each
38 house of the legislature.

APPROVED BY THE GOVERNOR MAY 12, 2003.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 13, 2003.

FAILED

Passed the House May 1, 20 03,

by the following vote: 38 Ayes,

17 Nays, 5 Not Voting

Speaker of the House
Pro Tempore

Norman L. Moore
Chief Clerk of the House

Passed the Senate March 12, 20 03,

by the following vote: 22 Ayes,

7 Nays, 1 Not Voting

With Article IX, Section 22

Ken Blumett
President of the Senate

Charmian Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

 day of , 20 ,

at o'clock M.

Secretary to the Governor

Approved this day of

 , 20 ,

at o'clock M.

Governor of Arizona

S.B. 1103

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this day of , 20 ,

at o'clock M.

Secretary of State

ON RECONSIDERATION

Passed the House May 1, 20 03,

by the following vote: 41 Ayes,

16 Nays, 3 Not Voting
Article IX, Section 22



Speaker of the House
Pro Tempore


Chief Clerk of the House

~~Passed the Senate _____, 20 _____,~~

~~by the following vote: _____ Ayes,~~

~~_____ Nays, _____ Not Voting~~

~~_____ President of the Senate~~

~~_____ Secretary of the Senate~~

**~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR~~**

~~This Bill was received by the Governor this~~

~~_____ day of _____, 20 _____,~~

~~at _____ o'clock _____ M.~~

~~_____ Secretary to the Governor~~

~~Approved this _____ day of~~

~~_____, 20 _____,~~

~~at _____ o'clock _____ M.~~

~~_____ Governor of Arizona~~

**~~EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE~~**

~~This Bill was received by the Secretary of State~~

~~this _____ day of _____, 20 _____,~~

~~at _____ o'clock _____ M.~~

~~_____ Secretary of State~~

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate May 7, 2003

by the following vote: 20 Ayes,

8 Nays, 2 Not Voting
with Article IX, section 22

Klu Blum
President of the Senate

Charmain Ballington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

7 day of May, 2003

at 3:00 o'clock P M.

Sandra Kemy
Secretary to the Governor

Approved this 12 day of

May, 2003,

at 9¹⁵ o'clock A. M.

J. T. Ngile
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 13 day of May, 2003,

at 4:03 o'clock P M.

Janice L. Brown
Secretary of State

S.B. 1103